

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:18-cv-00226-MR-WCM**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	<u>ORDER OF DEFAULT</u>
vs.)	<u>JUDGMENT OF</u>
)	<u>FORFEITURE</u>
)	
APPROXIMATELY \$13,594 IN)	
FUNDS SEIZED FROM JERRELL)	
TITO BOWMAN,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court on the Government's Motion for Default Judgment of Forfeiture pursuant to Fed. R. Civ. P. 55(b)(2). [Doc. 9]. The Government requests that the Court enter a Default Judgment of Forfeiture as to all persons and entities with respect to the \$13,594 in U.S. Currency (the "Defendant Currency") named in the Complaint.

On August 7, 2018, the Government filed a Verified Complaint (the "Complaint") for Forfeiture *In Rem*, alleging that the Defendant Currency is subject to civil forfeiture under 21 U.S.C. § 881.¹ [Doc. 1]. The same day

¹ As the Government points out in its memorandum of law in support of its motion for default judgment, although the Government correctly cited 21 U.S.C. § 881 in its Complaint, it mistakenly cited 21 U.S.C. § 881(a)(4), which pertains to the forfeiture of

the Complaint was filed, the Clerk issued a Warrant of Arrest *In Rem* for the Defendant property. [Doc. 2].

As detailed in the Complaint, this case arises out of an investigation by the Buncombe County Anti-Crime Task Force (“BCAT”) concerning the trafficking of heroin, marijuana, and other narcotics from the Dunbar Apartment Complex in Arden, NC. [See generally Doc. 1]. On March 21, 2018, pursuant to a search warrant, BCAT agents searched an apartment in the Dunbar Apartment Complex located at 314 Peacock Lane, Arden, NC 28704, in which Jerrell Tito Bowman and Aisha Amani Harrison resided. [Id. at ¶¶ 5, 9, 27].

During the search, BCAT agents located, among other things, the following items: 19.5 grams of suspected heroin; 4.7 grams of suspected crack cocaine; 50.1 grams of suspected powder cocaine; a set of digital scales with white residue on them; two bottles of “Inositol,” a cutting agent; 4.1 grams of smoked marijuana cigarettes; 1.015 pounds of marijuana; and approximately \$11,013.00 in U.S. Currency. [Id. at ¶¶ 35-40].

That same day, BCAT agents also conducted a search of a 2006 Acura displaying NC license plate EJV-2028 that Mr. Bowman was seen driving

conveyances, instead of 21 U.S.C. § 881(a)(6), which pertains to the forfeiture of currency. [Doc. 1 at ¶ 1]. However, this scrivener’s error has no bearing on the merits of the Complaint, or the basis for default judgment.

that day. [Id. at ¶¶ 12-13]. During the search of the vehicle, agents located 42.5 grams of suspected cocaine base, 3.6 grams of suspected heroin, a Sig Sauer P2022 9mm Pistol, \$1,994 in U.S. Currency, 6.2 grams of marijuana rolled in a cigarette, and .505 pounds of marijuana in four separate baggies. [Id. at ¶ 44]. The 2006 Acura was registered to Timothy Green and Shanae Davis,² and their address was listed as 111 Spruce Hill Lane, Asheville, NC. [Id. at ¶¶ 12-13]. Additionally, that same day, BCAT agents located \$587.00 in U.S. Currency on Mr. Bowman's person. [Id. at ¶ 44]. Mr. Bowman was arrested and charged with various offenses, including drug trafficking charges. [Id. at ¶ 57]. On March 22, 2018, a K9 positively alerted to the Defendant Currency. [Id. at ¶¶ 59-60].

Following the seizure, the Drug Enforcement Administration ("DEA") initiated administrative forfeiture of the Defendant Currency. During the administrative forfeiture process, DEA mailed notice of the administrative forfeiture to Mr. Bowman, Ms. Harrison, Mr. Green, and Ms. Davis. Mr. Green was the only individual who filed a claim with the DEA in the administrative process, and his claim was only as to \$2,581 of the \$13,594 in U.S. Currency that was seized.

² As the Government points out in its memorandum of law in support of its motion for default judgment, the Complaint contains an incorrect spelling of Ms. Davis's first name. [Doc. 1 at ¶ 13]. Her first name is Shanae, not Shane.

After the Government filed its Complaint on August 7, 2018, in accordance with Rule G(4)(b) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, the Government provided direct notice of the action to known potential claimants. Specifically, on August 22, 2018, the Government mailed notice and a copy of the Complaint to Mr. Bowman and Ms. Harrison at their address of record, 314 Peacock Lane, Arden, NC 28704. Additionally, on August 22, 2018, the Government mailed notice and a copy of the Complaint to Mr. Green at 5 Blanton Street, Asheville, NC 28801, which was the address he listed on his administrative claim, and the Government also mailed notice and a copy of the Complaint to Mr. Green's attorney, Joseph Connolly, at 81 Central Avenue, Asheville, NC 28801. Finally, on September 10, 2018, the Government mailed notice and a copy of the Complaint to Ms. Davis at 111 Spruce Hill Lane, Asheville, NC, which was the address listed on her registration for the 2006 Acura. Furthermore, in accordance with Supplemental Rule 4(a), the Government provided notice by publication as to all persons with potential claims to the Defendant Currency by publishing notice via www.forfeiture.gov from August 22, 2018, until September 20, 2018. [Doc. 5].

On August 27, 2018, the apartment manager of Dunbar Place Apartments called the United States Attorney's Office to inform the

Government that Mr. Bowman and Ms. Harrison no longer live in the apartment complex and that a new tenant had accidentally opened the notice package sent from the United States Attorney's Office. The apartment manager also informed the Government that Ms. Harrison's mail was provided to her grandmother for forwarding to Ms. Harrison.

Rather than seek the entry of default immediately after the claims deadline expired, the Government took additional steps to locate Mr. Bowman and Ms. Harrison. Specifically, on September 5, 2018, October 9, 2018, and again on February 13, 2019, the United States Attorney's Office contacted DEA and sought assistance in obtaining an updated and current mailing address for Mr. Bowman and Ms. Harrison. Although DEA has reason to believe that Mr. Bowman and Ms. Harrison now reside in the Charlotte area, DEA has not been able to locate a valid address for either individual.

Under the circumstances of this case, the Court finds that the Government has taken reasonable steps to provide notice to known potential claimants, and the Government has otherwise complied with the notice requirements set forth in Supplemental Rule G(4). Additionally, during the pendency of this action, no individual or entity has timely filed a proper claim to the Defendant Currency or otherwise answered.

On February 22, 2019, pursuant to Fed. R. Civ. P. 55(a), the Government filed a motion for entry of default [Doc. 7], and the Clerk entered default that same day [Doc. 8].

After careful review, the Court finds that the Government has established that the entry of a default judgment is appropriate.

Accordingly, **IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED** that:

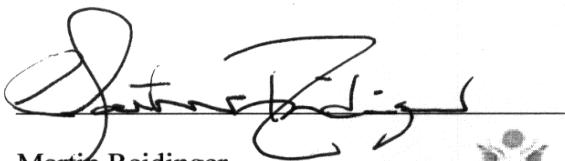
1. The Government's Motion for Default Judgment of Forfeiture [Doc. 9] is hereby **GRANTED**, and judgment is entered in favor of the United States against all persons and entities with respect to the \$13,594 in U.S. Currency.

2. Any right, title and interest of all persons and entities to the \$13,594 in U.S. Currency is hereby forfeited to the United States, and no other right, title, or interest shall exist therein.

3. The United States Marshal is hereby directed to dispose of the \$13,594 in U.S. Currency as provided by law.

IT IS SO ORDERED.

Signed: March 4, 2019



Martin Reidinger
United States District Judge

